



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**DISSENTING OPINION IN ADVISORY OPINION 1982-27**

of

**COMMISSIONER THOMAS E. HARRIS**

On March 27, 1982, the Dallas Times Herald began a story about the proposed Dallas Convention Fund in this way:

The 1984 Republican National Convention may be brought to you courtesy of folks like Neiman-Marcus, Dr. Pepper, and Texas Instruments, if city officials get their wish.

I suggest that this perception of Dallas' plan for financing political conventions is not far off the mark. By permitting corporations or unions to donate unlimited amounts of money to fund political conventions, the Commission is ignoring one of the clear concerns of 2 U.S.C. 441b and its predecessor statutes - that is, the fear of the influence of aggregated wealth on the political process.

The fact that the donations in this case are to be funneled through a "Convention Fund" does not alleviate the problem. The proposed Republican National Convention apparently will be the first to be financed by the Dallas Convention Fund, and, even if that is not the case, nothing will prevent prospective donors from stating publicly that they are going to make donations to the Fund to help finance impending political conventions.

The Commission's regulations on Federal Financing of Presidential Nominating Conventions provide a narrow exception to the 441b prohibition, permitting corporate or union involvement on a limited basis, in order to promote the city's commerce and image and allow certain traditional types of convention-related services to be supplied by the city or its "host committee." Specifically, 11 CFR 9008.7(d)(2) provides that host committees may accept unlimited funds from businesses, but only if the donors are local businesses and only if the funds are to be used to promote the convention city and its commerce. 11 CFR 9008.7(d)(3) provides that businesses may donate funds to the host committee to be used to defray convention expenses, but again the businesses must be local businesses, and donations are limited to an amount proportionate to the commercial

return reasonably expected during the life of the convention by the particular business. The Commission's explanation and justification for this regulation states:

The restrictions concerning who may donate funds to defray convention expenses and the amounts which may be donated are necessary to insure that such donations are commercially, rather than politically motivated...Defrayal of convention expenses by a host committee is intended to be a very narrow exception to the statutory limitation on convention expenses. 44 Federal Register 63038 (1979).

In the case at hand, the City of Dallas will be acting in place of a host committee for the Republican National Convention, and funds donated to Dallas to finance the convention should be subject to the same restrictions the Commission has placed on funds donated to the host committee.

Finally, while 11 CFR 9008.7(b) allows municipal corporations to make certain expenditures for services and facilities without the value of those facilities and services counting toward the parties expenditure limitation, this regulation was not intended to permit municipalities to serve as conduits for what would otherwise be prohibited contributions. The intent of this section was merely to permit cities to make traditional and, in some cases, unavoidable expenditures by providing normal public services for political conventions, e.g., transportation services, utilities, parking facilities, police, fire, and health services, etc. Indeed, the Commission warned in its explanation and justification of this regulation:

Also, under Subsection (b), the agency which provides facilities or services to the convention may not obtain goods or services from other persons at less than fair market value, except for reductions or discounts made in the ordinary course of business. This restriction is imposed in order to prevent the government agency from acting as a conduit for prohibited contributions. 44 Federal Register 63037 (1979).

The Commission has forgotten that when it approved the regulations permitting business and municipal involvement in the financing of political conventions, it was creating a narrow exception to the broad prohibition of 2 U.S.C. 441b. By allowing any person to give unlimited funds which may be used to help finance a Presidential nominating convention, the Commission has seriously undercut not only the broad prohibition of 2 U.S.C. 441b, but also the limits that Congress placed on the amount of expenditures a party may make for such a convention. (26 U.S.C. 9008(d)(1)).